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| APPLICATION NO.                                                                                                       | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------------------------------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/656,574                                                                                                            | 09/05/2003  | Daniel John Smith    | 1171/41365/Case 135 | 7897             |
| 279                                                                                                                   | 7590        | 04/23/2007           | EXAMINER            |                  |
| TREXLER, BUSHNELL, GIANGIORGI,<br>BLACKSTONE & MARR, LTD.<br>105 WEST ADAMS STREET<br>SUITE 3600<br>CHICAGO, IL 60603 |             |                      | AFTERGUT, JEFF H    |                  |
|                                                                                                                       |             | ART UNIT             | PAPER NUMBER        | 1733             |

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE  | DELIVERY MODE |
|----------------------------------------|------------|---------------|
| 3 MONTHS                               | 04/23/2007 | PAPER         |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                  |              |
|------------------------------|------------------|--------------|
| <b>Office Action Summary</b> | Application No.  | Applicant(s) |
|                              | 10/656,574       | SMITH ET AL. |
|                              | Examiner         | Art Unit     |
|                              | Jeff H. Aftergut | 1733         |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 March 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 and 3-28 is/are pending in the application.
- 4a) Of the above claim(s) 14-24 is/are withdrawn from consideration.
- 5) Claim(s) 10-13 and 25-27 is/are allowed.
- 6) Claim(s) 1,3-9 and 28 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 3-6 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent 19848172 in view of Carlson (US '061) and Hytrel ® thermoplastic polyester elastomer (from duPont 2000) for the same reasons as expressed in paragraph 4 of the Office action dated 9-28-06.

With regard to new claim 28, note that the leading edge of the overlapping ribbon met or substantially met the underlapping ribbon at the leading edge of the bead as at 10 in German Patent '172.

3. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as set forth above in paragraph 2 further taken with Nash for the same reasons as expressed in paragraph 5 of the Office action dated 9-28-06.

***Election/Restrictions***

4. Claims 14-24 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1-11-06.

***Allowable Subject Matter***

5. Claims 10-13 and 25-27 are allowed.

None of the prior art of record taught the step of welding the overlapped layers of sacrificial material together in a process of continuously making a conduit. The oath submitted with the reply dated 3-23-07 has been found to be persuasive.

***Drawings***

6. The drawings were received on 3-23-07. These drawings are approved for the replacement sheets submitted.

***Response to Arguments***

7. Applicant's arguments filed 3-23-07 have been fully considered but they are not persuasive.

The applicant argues that the inclusion of the wire in German Patent '172 was materially different from the specified operation performed by applicant as no reinforcing wire was present in the bead applied and that the reference did not provide a reinforcing rib which was formed from the bead of plastic which was cooled after the bonding operation took place. The applicant is advised that the claims as presented did not exclude the inclusion of the wire in the region where the bead was located and additionally actually recited the inclusion of an electrical wire embedded within the same. As such, it is not seen how the claims as presented define over the reference to German Patent '172 other than the fact that the claims require that the plastic film material be supple and conform to the shape of the bead. It should be noted that in German Patent '172 the wound sheet clearly conformed to the shape of the bead of material applied. The applicant is advised that the use of a supple material for making the conduit would have been obvious in light of Carlson '061 and Hytrel. Regarding

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claims 7-9, it should be noted that Nash taught a sacrificial layer within the meaning of the context as claimed. The reference did not teach the welding of the overlapped portions of the sacrificial layer, however the claims as presented do not require the same. Those claims which do recite the welding of the overlap of the sacrificial layer have been found to be allowable over the prior art of record for the reasons discussed above.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Murray, Blair et al and Schreiner et al all taught sacrificial layers on the interior of formed conduits, however none suggested that such would have been formed from overlapped wound material which was welded together.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:15-345 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system; see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jeff H. Aftberg  
Primary Examiner  
Art Unit 1733

JHA  
April 19, 2007